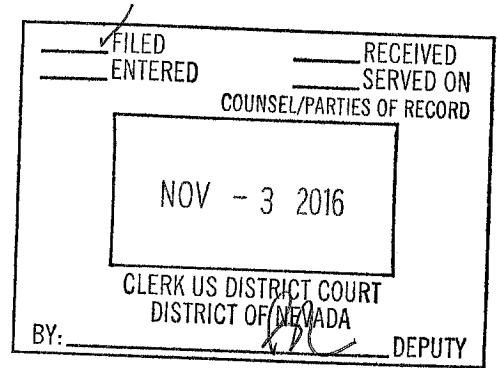


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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

Case No. 2:15-cv-01913-RFB-CWH

CHARLES ROY HAYES, an individual,
Plaintiff

v.

IVELYS FRANCO, an individual acting
in her capacity as an Officer of Nevada's
Office of the Labor Commissioner;
LINDA GAIL LOWERY-GLAZE, an
individual acting in her capacity as an
Officer of Nevada's Office of the Labor
Commissioner;
KEITH ANTHONY SAKELHIDE, JD,
an individual acting in his capacity as an
Officer of Nevada's Office of the Labor
Commissioner;
THORAN CHRISTIAN TOWLER, JD,
an individual acting in his capacity as an
Officer of Nevada's Office of the Labor
Commissioner;
ANITA SOONHEE BARTEL-BAILEY,
JD, an individual acting in her capacity as
an Officer of Nevada's Office of the Labor
Commissioner,
Defendants.

**MOTION REQUESTING
CONTINUANCE for
PLAINTIFF'S 14 NOVEMBER RESPONSE
TO DEFENDANTS' REVISED MOTION
TO DISMISS**

On 23 September 2016 the Court ordered the Defendants to file a Revised Motion to Dismiss by 24 October 2016. The Court also ordered that Plaintiff's Reply such Motion shall be due by 14 November 2016.

Plaintiff requests a Continuance for his Reply for the following reasons:

I. Promptness and adherence to Court's requirements

On 17 October Plaintiff Hayes requested of Defense Counsel Mr. Werbicky that Mr. Werbicky E-mail to Hayes in PDF format a copy of his Revised Motion to Dismiss (the MTD) when he filed it on 24 October. The Court required of Mr. Werbicky that he file the MTD on 24 October.

On 25 October Mr. Werbicky E-mailed Hayes that it was inconvenient for him to send the MTD on the 24th*, but that he was sending it on that day, the 25th. When the mailed copy of Mr. Werbicky's MTD arrived, the Nevada Attorney General's internal postmark on it was was "10/25/2016," not "10/24/2016."

Hayes received Mr. Werbicky's digital copy of the MTD on 25 October and received the mailed copy on 27 October.

Plaintiff Hayes has never purposely or knowingly been delinquent in filing pleading papers with the Court or sharing such papers with Defendants' Counsel, no matter his other responsibilities nor how inconvenient it may have been to conform to the Court's orders.

II. Days allowed for Defendant's Counsel to compose the Revised Motion to Dismiss versus days allowed for Plaintiff to compose a Reply to that Motion

Deputy Attorney General Robert E. Werbicky was handed the baton by Deputy Attorney General Melissa L. Flatley on 1 September 2016.

On 23 September the Court gave Mr. Werbicky 21 workdays to compose and file a Revised Motion to Dismiss, and thus Mr. Werbicky was allowed 38 workdays overall to review the case and to compose his Revised Motion

On 23 September the Court gave Hayes 16 workdays in which to respond to Mr. Werbicky's

* Mr. Werbicky was due to appear on behalf of the AG's office in U.S. Bankruptcy Court on 26 October 2016 (STERN SCHNUPPE LLC Minute Entry Re: hearing on 10/26/2016 9:30 AM. Related [+] Appearances : NEDDA GHANDI, LINDSY MICHELE ROBERTS, ROBERT E WERBICKY). Mr. Werbicky's preparation for that appearance apparently superseded any need to be prompt in adhering to this Court's requirements.

1 Motion to Dismiss. (Reduced by Mr. Werbicky to 15 workdays, insofar as Mr. Werbicky sent copies
 2 of his Motion on 25 October, rather than on the 24th. Worse; had Hayes not requested a digital copy
 3 via the ‘net, Mr. Werbicky would have reduced Hayes’s workdays to 13, dating from Hayes’s receipt
 4 of the mailed copy of the Motion on 27 October.)

5 **III. Relative resources of Defendant’s Counsel compared to those of Plaintiff**

6 As previously stated (in Hayes’s *Rebuttal to Defendants’ “Reply” of 1 February 2016* filed on
 7 16 February 2016):

8 “The Office of the Attorney General of the State of Nevada is presumed to have in-office
 9 access to professional-level pleading forms, professional-level legal-filings software, legal-citations
 10 libraries, and professional online legal cites and library resources. The AG’s office also is presumed
 11 to have more than one Deputy Attorney General, as well as paralegals, legal secretaries, transcrib-
 12 ing secretaries, research associates, clerks of one sort or another, and perhaps an intern or two.”

13 As noted in his *Rebuttal of 1 February*), Plaintiff Hayes’s resources are significantly less ro-
 14 bust than those of the Office of the Attorney General.

15 The Nevada Attorney General’s budget is \$77,165,865.00 for fiscal 2016; Hayes’s budget for
 16 legal affairs is microscopic by comparison.

17 Member of the Nevada Bar Robert E Mr. Werbicky has a law degree and has been practic-
 18 ing law for twenty years; Plaintiff Hayes does not have a law degree, and has had no previous experi-
 19 ence in litigation.

20 **IV. A Daunting Motion to Dismiss**

21 As well as making over two dozen allegations against Hayes’s Complaint, Mr. Werbicky’s
 22 Motion to Dismiss contains 53 case-law citings, many of which Hayes had to download at UNLV’s
 23 Boyd Law Library. Not only must Plaintiff Hayes read and analyze Mr. Werbicky’s dozens of allega-
 24 tions, Hayes also must study these 53 case-law citations in order to research Mr. Werbicky’s Motion
 25 and compose an Opposition to it that is acceptable to this Court.

26 **V. Request and Petition**

27 Given Hayes’s meager resources and the magnitude of having to read, comprehend, and
 28 respond to 53 case-law citings, Hayes projects that he will have to spend nearly all waking hours

1 (including meals at his little home-office desk—on Thursday 24th November a turkey and cranberry
2 sandwich) seven days a week (no weekends off) reading and comprehending the case-law citings,
3 then composing a Reply to the Motion to Dismiss. Even then, Hayes fears that he will not have time
4 enough for reading and properly composing such response.

5 Hayes therefore requests and petitions the Court for a Continuance of Hayes's deadline
6 from 14 November to 28 November, thus allowing Hayes an extra 14 days (including weekends and
7 desk-bound meals) in which to properly conform to the requirements of this Court.

8
9 CERTIFICATE OF SERVICE

10 I certify that on 3 November 2016 I filed the foregoing document to the Court via E-mail,
11 and that I E-mailed a copy of the foregoing document to

12 Robert E Mr. Werbicky via *RWerbicky@ag.nv.gov*.

13
14 (Signed by Charles R Hayes, EA)

15
16 IT IS SO ORDERED:

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18 

19 RICHARD F. BOULWARE, II
20 United States District Judge

21 DATED this 14th day of November, 2016.
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